

**DEPARTMENT OF STATE REVENUE**

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**LETTER OF FINDINGS NUMBER: 98-0199P**

**Sales and Use Tax**

**For The Period: October 31, 1997**

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**ISSUE**

**I. Tax Administration – Penalty**

Authority: IC 6-8-1-10-2.1(d), 45 IAC 15-11-2

**STATEMENT OF FACTS**

Taxpayer files monthly ST-103's and was assessed a late filing penalty because the postmark was after the due date.

**I. Tax Administration - Penalty**

**DISCUSSION**

At issue is whether the taxpayer's postage machine qualifies as a means to timely file a return and whether the taxpayer is subject to a penalty.

IC 6-8.1-6-3(a) states:

A document, including a form, a return, a payment, or a writing of any type which must be filed with the department by a prescribed date, is considered filed:

(1) in cases where it is mailed through the United States mail, on the date displayed on the post office cancellation mark stamped on the documents wrapper.

The tax return was due on November 20, 1997, the postage meter stamp showed a date of November 19, 1997, however, the post office stamp was dated November 23, 1997. The return was clearly late therefore liability #97-0138701 is correct as issued.

**FINDING**

The department finds the penalty appropriate.